

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

DEBRA JOYCE CLACKLER, #159516

Plaintiff,

CIVIL ACTION No.2: 06-CV-172-WHA

v.

GLADYS DEESE, et al.,

Defendants.

AFFIDAVIT

Before me, the undersigned Notary Public, did personally appear Frank Albright, who being duly sworn deposes and makes the following statement:

My name is Frank Albright. I am an individual over the age of nineteen years and I am employed by the State of Alabama, Department of Corrections, at Julia Tutwiler Prison for Women, 8966 U.S. Highway 231, Wetumpka, Alabama. I am currently employed in the capacity of Warden III and prior to my promotion I was a Deputy Warden II. I am named a defendant in this case.

I have read the complaint in the above referenced case and make the following statement in defense thereof; Before October 14, 2004, the day Debra Clackler was transferred to South Louisiana Correctional Center, the ADOC transfer division asked for a specific number of inmates to be transferred to Louisiana. Upon receiving the request, I instructed Mr. Stan Dean, Tutwiler's Classification Supervisor, to furnish a list of inmate names that met the criteria for transfer to Louisiana. These criteria included being medically cleared both physically and mentally by the medical providers. Debra Clackler was cleared by the health care provider at that time. I was advised by Inmate Debra Joyce Clackler, W/F, #159516, while I was at the South Louisiana Correctional Center that she was ill. According to Debra Clackler's statement



to me there was a mass in her side. When I returned to Alabama, I recommended that she be returned to Tutwiler Prison for Women for medical reasons to be seen by our physician.

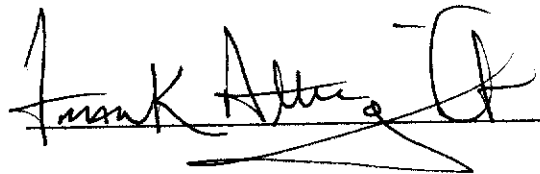
On the transfer orders dated March 24 and 25, 2005, Debra Clackler was returned to Tutwiler for medical reasons. (Please see transfer order page 21 of the attachment) The standard procedure at Tutwiler is that medical returnees will be seen by medical personnel the next business day and screened for any medical complaints and Debra Clackler was seen on March 25, 2005 by a medical intake nurse.

According to our records, Dr. Peasant saw Inmate Clackler on April 12, 2005, for the mass that she was returned from Louisiana for. An ultra sound was ordered and an outside consult with Dr. Daly was also ordered. Dr. Daly saw the patient on May 16, 2005, and on May 17, 2005 the process was started to schedule another appointment with Dr. Daly for surgery for the removal of the mass. In between Dr. Peasant seeing the patient on April 12, 2005, and seeing Dr. Daly May 16, 2005, Inmate Clackler sent an Inmate Request Form dated May 8, 2005, requesting that I help her in attaining medical care for her said problem. I spoke with medical and they informed me that an appointment had been made for May 16th. For security reasons, it is not our procedure that we inform the inmate of the pending outside appointments. Therefore, I did not get back with the inmate but I felt assured that she was being treated as required.

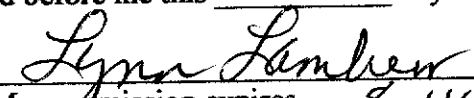
I do not remember Inmate Clackler giving me any additional requests for medical care until one day in November 2005 she met me in the hallway and stated that she was still having some medical problems; that she had filed several complaints and medical had not attended to her problems. She showed me a complaint attached as page 19, which she told me had not been responded to. She requested that I look into the situation. I advised her to provide me with copies of allegedly unanswered medical complaints if she had them. She went back to her cell and returned with several copies of grievances and information that she said were hand-written, unofficial grievances (See attached copies) pages 14-20, which she stated had not been

answered. Since this was my first knowledge of the grievances allegedly not being attended to, on November 8, 2005 I sent a memo requesting, PHS Senior Administrator, Marilee Moore to respond to the grievances that were filed in October 2005. Ms. Moore provided a written response (see page 22). Due to Inmate Clackler approaching me in the hallway I needed a response from the medical provider.

I have for the court's information attached various e-mails where I have also checked concerning the medical care received by Debra Clackler the responses thereto.

 Affiant

Sworn to and subscribed before me this 27th day of April 2006.

 Notary Public
My commission expires 8-14-2006

INMATE REQUEST SLIP

Name Debra, Clackley Quarters Dorm 3-248 Date 5-3-05AIS # 159516

- ☐ Telephone Call ☐ Custody Change ☐ Personal Problem
☐ Special Visit ☐ Time Sheet ☒ Other medical problem

Briefly Outline Your Request - Then Drop In Mail Box

While I was in housing, I spoke with you about my unresolved medical problem. I have a lipoma in my left side which is causing problems. After I wrote a request to you on 4-7-05, I finally got to see Dr. Pensant. He ordered a sonogram and mammogram on 4-12-05, but they still haven't done anything. I am signing up for healthcare again today. I am having abdominal pain and pain and burning in both sides. When I eat and drink, the pain and burning gets worse and my abdomen swells. I feel weak and faint. I am also having difficulty breathing when I lay down. I have also filed grievances. Can you please help me get some medical attention?

Thank you,
 Debra Clackley

Do Not Write Below This Line - For Reply Only

emailed PHS 05/13

Approved

Denied

Pay Phone

Collect Call

Request Directed To: (Check One)

- ☐ Warden ☒ Deputy Warden ☐ Captain
☐ Classification Supervisor ☐ Legal Officer - Notary Public ☐ Record Office

N176

Response given 5/16/05,

Wright

844adm

From: Tumilson, Dawn [DTumilson@doc.state.ai.us]
 Sent: Tuesday, May 24, 2005 8:04 AM
 To: Kreauter, Barbara
 Cc: Tumilson, Dawn; Albright, Frank
 Subject: FW: Requested Information for Warden Frank Albright

Importance: High

This is the 3rd request for information concerning the below listed inmates. Responses are to be in my office no later than Friday, May 27, 2005. Your cooperation in this matter is greatly appreciated. -Warden Albright

> -----Original Message-----

> From: Tumilson, Dawn
 > Sent: Friday, May 13, 2005 9:41 AM
 > To: '844adm@asgr.com'
 > Cc: Tumilson, Dawn; Albright, Frank
 > Subject: Requested Information for Warden Frank Albright
 > Importance: High

> Warden Albright would like medical information concerning the below
 > mentioned inmates as soon as possible. Your responses will need to be
 > written or emailed back to Warden Albright. Thank you.

> Deborah Johnson AIS#150359 (medical complaint and last time seen by
 > PHS)

> Teresa Brooks AIS#187303 (medical condition concerning legs and
 > stomach and last time seen by PHS)

> Cherry Baker AIS#1822448 (last time seen for sick call screening and
 > any charges for follow up care)

> Connie Wiggins AIS#233626 (charges for the same visit)

> Terry Butts AIS#198293 (medical condition concerning lumps
 > in throat and last time seen by PHS)

> Velveeta Johnson AIS#222528 (medical condition and treatment)

> Lisa Fretwell AIS#236030 (medical condition, last seen seen
 > by PHS and treatment)

> Lynda Sides AIS#150446 (status on KOP medication shortage)

> Gloria Richardson AIS#139059 (medical condition concerning needle in left
 > breast and last time seen by PHS)

> Debra Clackler AIS#159516 (last time seen by outside physician
 > concerning lymphoma and missed outside appointments)

> Sonya Williams AIS#215778 (appointment for surgery)

> ~~Cynthia Jones AIS#232772~~ (meds 3 times a day are being *gone 2003*
 > refused by nurses but being charged although chronic care)

> Ruth Chambers AIS#134196 (charges for visits)

> Linda Cox AIS#230965 (medical condition and treatment plan)

> Malikah Shabazz AIS#140301 (copy of MARS)

Warden Albright—In response to your email regarding the following inmates.

Fretwell, Lisa-236030

Ms. Fretwell was seen by the doctor for complaints of back pain and blood in her urine. Dr. Peasant ordered lab work and x-rays. The x-ray done 5/6/05 did show a kidney stone in the ureter (left) tube from kidney to bladder. The patient was ordered to see Dr. Bhuta (kidney doctor). Dr. Bhuta ordered a CT Scan at Elmore Community Hospital done on 5/13/05. Patient saw Dr. Bhuta 5/16/05 and Lithotripsy was done (breaking of the stone with sound waves). The procedure was successful. The patient was admitted to the Health Care Unit. She was released on 5/18/05 with instructions to strain her urine.

Richardson, Gloria-139059

Ms. Richardson has been seen due to complaints of pain in her breast. This patient was first evaluated for this complaint in 1999. Dr. Whyte saw her after there were 6 metallic objects found on her chest x-ray. Dr. Whyte at that time said he would not operate. The patient was again seen by Dr. Aderholt in 2001 and no surgery was ordered. The patient was again evaluated by Dr. Whyte in March of this year and again stated no surgical intervention at this time.

Shabazz, Malikah-140301

MARs are attached as requested.

Sides, Linda-150446

Her medications have been issued as far as I can tell.

Wiggins, Connie-233626

We do not have those records. We do not know the charges. All of her charges are legitimate after reviewing her sick calls.

Butts, Terry-198293

Patient has been evaluated for lumps in neck and neck pain since 10/14/04. Dr. Engelhardt and Dr. Peasant have seen and evaluated this patient. Many tests and x-rays have been done and neither physician can find a cause of her stated pain. *Has she been seen by any outside doctors?*

Chambers, Ruth-134196

Mrs. Johnson reviews these requests. We cannot review anything without the receipts.

Clackler, Debra-159516

This patient was returned from Louisiana on 4/4/05. The patient was seen by Dr. Peasant on 4/12/05. An ultrasound was ordered and a consult with Dr. Daly was ordered. The patient saw Dr. Daly on 5/16/05. On 5/17/05 another appointment was made for removal of mass.

Williams, Sonya-215778

Patient saw Dr. Pinchback on 5/18/05.

Johnson, Deborah-150359

I could not find anything she has complained about.

*— last time seen
by Doctor?*

Johnson, Velveeta-238957

Patient was diagnosed with cancer of the vulva (outside lips of the vagina). The treatment plan will come from the GYN team in Birmingham.

✓ Cox, Linda-230965

Cirrhosis of the liver. Treatment is supportive.

Brooks, Teresa-187303

This patient was last seen by Dr. Peasant on 5/16/05. An offsite was ordered that day for consult with Dr. Daly for possible surgery.

what is the problem?

Baker, Cherry-182248

Listed below are last complaints.

5/11/05-Constipation, pain in right hand, renew bottom bunk profile

4/22/05-Body chart-stated chest pain-blood pressure was 124 over 66, pulse was 64, respiration was 20, EKG was normal.

4/18/05—inmate stated that she was being seen as a "follow-up" for weakness and being lightheaded.

4/11/05—inmate stated that she was being seen as a "follow-up" for being lightheaded, dizzy, and weak.

3/31/05—"To renew my gold slip to lay down and to wear my shirt out."

Marion Wright, RN, HSA

May 26, 2005

Tumlison, Dawn

From: Tumlison, Dawn
Sent: Tuesday, May 24, 2005 8:04 AM
To: '844adm@asgr.com'
Cc: Tumlison, Dawn; Albright, Frank
Subject: FW: Requested Information for Warden Frank Albright

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Teresa Brooks AIS#187303	(medical condition concerning legs and stomach and last time seen by PHS)
Cherry Baker AIS#1822448	(last time seen for sick call screening and any charges for follow up care)
Connie Wiggins AIS#233626	(charges for the same visit)
Terry Butts AIS#198293	(medical condition concerning lumps in throat and last time seen by PHS)
Velveeta Johnson AIS#222528	(medical condition and treatment)
Lisa Fretwell AIS#236030	(medical condition, last seen seen by PHS and treatment)
Lynda Sides AIS#150446	(status on KOP medication shortage)
Gloria Richardson AIS#139059	(medical condition concerning needle in left breast and last time seen by PHS)
Debra Clackler AIS#159516	(last time seen by outside physician concerning lipoma and missed outside appointments)
Sonya Williams AIS#215778	(appointment for surgery)
Cynthia Jones AIS#232772	(meds 3 times a day are being refused by nurses but being

charged although chronic care)

Ruth Chambers AIS#134196 (charges for visits)

Linda Cox AIS#230965 (medical condition and treatment plan)

Malikah Shabazz AIS#140301 (copy of MARS)

Dawn Tumilson
Deputy Warden's Secretary
Tutwiler Prison for Women
334-567-4369 ext. 219

If No reply b

Albright, Frank

From: Tumilson, Dawn
 Sent: Friday, May 13, 2005 7:41 AM
 To: '844adm@asgr.com'
 Cc: Tumilson, Dawn; Albright, Frank
 Subject: Requested Information for Warden Frank Albright

Importance: High

5/18/05

Advise them that

I needed it by
by 5/23/05.

Warden Albright would like medical information concerning the below mentioned inmates as soon as possible. Your responses will need to be written or emailed back to Warden Albright. Thank you.

05/17 see

Ps
 dt

Deborah Johnson AIS#150359 (medical complaint and last time seen by PHS) attached
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 Malikah Shabazz AIS#140301 (copy of MARS)

Tumlison, Dawn

From: Kreauter, Barbara [844adm@asgr.com]
Sent: Tuesday, May 17, 2005 10:51 AM
To: Tumlison, Dawn
Subject: RE: Requested Information for Warden Frank Albright

FYI 05/17/05

I printed and gave to Ms. Wright Friday and again today.
 Barbara

-----Original Message-----

From: Tumlison, Dawn [mailto:DTumlison@doc.state.al.us]
Sent: Friday, May 13, 2005 10:02 AM
To: Kreauter, Barbara
Subject: FW: Requested Information for Warden Frank Albright
Importance: High

let me know if you get this! -Dawn

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> **From:** Tumlison, Dawn
 > **Sent:** Friday, May 13, 2005 9:41 AM
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 > **Cc:** Tumlison, Dawn; Albright, Frank
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- >
- >
- >
- > Dawn Tumilson
- > Deputy Warden's Secretary
- > Tutwiler Prison for Women
- > 334-567-4369 ext. 219
- >

TRACIE BROWN
8/12/03

Summit Ridge Station 159516R

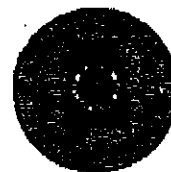


SON RILEY
GOVERNOR

GLADYS DIBEN
WARDEN III

State of Alabama
Alabama Department of Corrections

Julia Tutwiler Prison for Women
8966 U.S. Highway 231 North
Wetumpka, Alabama 36092



DORAL CAMPBELL
COMMISSIONER

FRANK ALBRIGHT
WARDEN II

MEMORANDUM

TO: Ms. Marilee Moore
PHS Senior Administrator

Frank Albright, Warden II
FROM: Mr. Frank Albright
Warden II

DATE: November 8, 2005

REF: Inmate Debra Joyce Clackler (AIS#159516)

Please review the attached correspondence and medical complaint form from inmate Debra Joyce Clackler, AIS# 159516. I would like a copy of the responses given to Inmate Clackler regarding her last two grievances dated October 2005.

Be advised that the In-house system denotes one medical appointment dated August 18, 2005 (see printout). Please advise if inmate Clackler was seen on this date and if she has had any other medical appointments that would remedy her complaint. If inmate Clackler has not been attended to, please provide me with a treatment plan.

Your response is due in my office no later than Monday, November 14, 2005. I appreciate your time concerning this matter. If you should have any questions, please do not hesitate to contact me.

FA/dt

CC: Ms. Ruth Naglich, Associate Commissioner
Ms. Lynne Brown, PHS Regional Manager
Classification (AC/UN)
File

Telephone (334) 567-4369

Fax (334) 514-6576

Medical GrievanceOctober 7, 2005

I was transported back from Louisiana on March 25, 2005. Warden Alright told me that I was to get my medical problem resolved as soon as possible, so I would be able to go back to Louisiana. I have been repeatedly requesting medical attention since I arrived. I had surgery on June 24, 2005, to remove a lipoma from my left side, but I am still having problems with my bowels. Every time I request medical care, I am screened and told that my name will be put on the doctor's list, but I do not get to see the doctor. Would you please make me an appointment with the doctor, so I can get this problem resolved? I am having pain in my left side and abdomen. My upper abdomen is very tight and sore, and the soft area between my ribs on both sides is sore. All of my stomach is swollen, and my upper abdomen is distended. I get nauseated every time I eat. I also have a family history of colon cancer, and I know that these symptoms should not be taken lightly. Your help in this matter would be greatly appreciated.

Medical ComplaintSeptember 3, 2004

I have been having abdominal pain, constipation, bloating and nausea for 5 months. The abdominal pain, nausea and bloating occurs shortly after eating and lasts for hours. They have treated the symptoms, but still haven't determined the source of the abdominal pain. The tumor on my left side has grown, and I frequently feel a pulling sensation across my abdomen and down my left side. I have repeatedly signed up for this problem since April 6, 2004.

Ms. Wright replied, "Dr. Engelhardt is following your case appropriately."

Grievance Appeal

August 22, 2005

I saw Dr. Daly at Montgomery Surgical Center on May 16, 2005. Dr. Daly said that I had a lipoma, which needed to be removed, and bowel obstruction. I had the lipoma surgery on June 24, 2005, but the bowel obstruction problem still has not been resolved. At the time of my surgery, my heart rate had dropped to 40. I was told to notify healthcare about my heart rate, so they could do some test to determine the problem. I have signed up for healthcare 6 times. Each time, I was told that my name was put on the doctor's list, but I still have not seen the doctor. The bowel obstruction has continued to be a problem. I have pain and swelling in the center and right side of my abdomen, and my bowels will not move without a laxative. Written response requested.

No response.

Formal Medical Grievance

May 5, 2005

I am having pain in my abdomen and both sides. The pain is continuous and goes through my abdomen and into my back. The pain is getting worse every day. Every time I eat, my abdomen swells. Dr. Peasant ordered a sonogram and mammogram for me on April 14, 2005. I still haven't had the sonogram or mammogram. Would you please check and see if the appointments have been scheduled?

No response.

Imade Formal Grievance

April 28, 2005

I am having pain in my abdomen and both sides. The pain is continuous and goes through my abdomen and into my back. When I saw Dr. Peasant on April 12, 2005, he prescribed Metamucil and ordered a sonogram and mammogram. When I went to pill line, I was told that they did not have any medication on the book for me. I still haven't heard anything about the sonogram or mammogram. Have the appointments been scheduled yet?

Ms. Wright replied, "Ms. Clackler, we cannot give the information that you requested."

Warden Albright

October 25, 2005

RE: Old unresolved medical problem

On April 6, 2004, I began having problems with a lipoma and bowel obstruction. I had lipoma surgery on June 24, 2005, but the bowel obstruction problem has not been resolved. At the time of my surgery, my heart rate had dropped to 40. I was given medication to increase my heart rate, so they could perform the surgery. I was told to notify healthcare about my heart rate, so they could do some tests to determine the problem. I have repeatedly written requests and grievances which healthcare has ignored. I am sending you a copy of the grievances. Would you please help me get these problems resolved? Your help in this matter would be greatly appreciated.

Thank you
Debra Clarkles

~~I intend to
be on my own
soon~~

MEDICAL COMPLAINT FORMNAME: Debra ClacklerDATE: 10-4-05AIS NUMBER: 159516UNIT: Room 12 Bed 47 B

This complaint is to be completed with as few words as possible to identify the problem. Additional pages attached to this form will not be accepted.

PART A -- INMATE COMPLAINT

I reported to pill line on 10-4-05 and took the INH. Nurse Robinson did not have the medical books and the medication was not recorded. When I questioned her, she wrote my name on a yellow post-it notepad and told me that she was doing her job. I told her that I was just doing what I was told to do, and Warden Abbott told me to watch the nurse record the INH on the mar in the medical book. I would like for this information to be recorded. Warden Abbott is aware of this.

PART B -- MEDICAL STAFF RESPONSE

STAFF SIGNATURE

DATE

IF YOU ARE UNSATISFIED WITH THE RESPONSE, YOU MAY FILE A MEDICAL GRIEVANCE USING THE MEDICAL GRIEVANCE FORM.

I Dissatisfied with Quality of Medical Care	<input type="checkbox"/>	VI Delay in Health Care Provided	<input type="checkbox"/>
II Dissatisfied with Quality of Dental Care	<input type="checkbox"/>	VII Problems with Medication	<input type="checkbox"/>
III Dissatisfied with Quality of Mental Health Care	<input type="checkbox"/>	VIII Request to be seen	<input type="checkbox"/>
IV Dissatisfied with Response to Non-Medical Request	<input type="checkbox"/>	IX Request for Off-site Speciality Care	<input type="checkbox"/>
V Conduct of Healthcare Staff	<input type="checkbox"/>	X Other	<input type="checkbox"/>

03/23/05 WED 15:56 FAX 384 240 3380

DEPT OF CORRECTIONS

001

SOCIAL SERVICES TRANSFER ORDER

Taylor, Stafford

DATE PREPARED: _____

ARS #	NAME	R/S	Transferred From	Date & Initials of Agent	Transferred To	Date Delivered To Destination	Custody	Remarks
159516	Clacker, Debra	W	La. Louisiana		Calhoun, De		Min	Medical
227884	Walker, Christy	W						
206027	Brasher, Tony	W						
218299	Murphy, Shelia	W					Med	
220536	Germichael, Wendy	W						
156741	White, Lezara	B					Min	Dental
197302	Glen, Mira	B					Med	
162136	Phillips, Kimberly	W					Min	Security
235234	Alsmith, Shanna	W						wife
238167	Cook, Melony	W						
174183	Flawkins, Mary	B						Care
217904	Sullivan, Tamika	B						
200920	Westbrook, Sharon	W						

To be moved by _____ Transfer Unit

Institution on 3-24-05 2005

Signature _____

Transfer Unit _____

Approved by _____

Social Services

November 11, 2005

Warden Albright,

As we discussed in your office on November 2, 2005. I had just received an medical complaint from inmate Clackler. She was scheduled for an appointment the next day November 3, 2005 with Dr. Williams.

Dr. Williams Stopped her INH, ordered lab work, and referred her to Dr. Engleheart.

Saw Dr. Engleheart on November 8, 2005. Dr. Engleheart added medication, ordered a pelvic ultrasound and follow up in two weeks. Scheduled to follow up the week of November 21, 2005. Waiting on the approval for the ultrasound and then will be scheduled ASAP.

If there is any other information you need please let me know.

Marilee Moore, RN
Health Service Administrator